

FISCAL NOTE

Bill #: SB0319

Title: Revise major facility siting act

Primary Sponsor: Mack Cole

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
Expenditures:	0	0
Revenue:	0	0
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Department of Environmental Quality

Generation facilities

1. This bill repeals MFSA certification requirements for generation and conversion facilities.
2. Over the past six months, the department has been working with a potential applicant and the department anticipates the receipt of a generating facility application by January 31, 2001. Even though we anticipate receiving this application prior to the effective date of SB 319, it is unlikely that the project would be certified prior to the effective date of SB 319. Therefore, this facility would fall under the provisions of SB 319 upon passage and the certification would not be required.

(continued)

3. The program will still have regulatory authority over Colstrip Units 3 & 4, associated facilities of Colstrip Units 1 & 2, and continued authority to fulfill obligations regarding FERC licenses as provided for in Section 75-20-204.
4. There will be no impacts to current budgeted MFSA staff and minimal impacts to Operating Expenses in the MFSA program.
5. The department assumes there will be a number of new generation facilities proposed due to the current energy crises after the passage of this bill.
6. These proposed generation facilities will have an impact on other permitting programs within the department. Potential generating and conversion facilities that do not trigger MFSA will probably require permits under Air and Water Quality Laws. The Montana Environmental Policy Act (MEPA) will apply to those permitting actions and the agency will therefore perform MEPA reviews pertaining to those permits. These impacts are not quantifiable at this time. If impacts are significant enough to trigger an EIS through MEPA, the applicant will be charged fees to perform an EIS through MEPA.

Pipeline facilities (linear facilities)

7. This bill increases the MFSA trigger on pipelines from 17 to 25 inches inside diameter and from 30 to 50 miles in length.
8. We anticipate receiving an application for a pipeline to support the generation project discussed in assumption #2. Even though we anticipate receiving this application prior to the effective date of SB 319, it is unlikely that the project would be certified prior to the effective date of SB 319. Therefore, this pipeline would fall under the provisions of SB 319 upon passage and the certification would not be required.
9. The program will continue to have regulatory authority over Express Pipeline.
10. There will be no impact to current budgeted MFSA staff and minimal impacts to Operating Expenses in the MFSA program.
11. The department assumes that additional pipelines as exempted under the provisions of this law will be proposed following this change in the law.
12. These proposed pipelines will have an effect on other permitting programs within the department. Potential pipeline facilities that do not trigger MFSA will probably require permits under State Air and/or Water Quality Laws and approvals by other state and local agencies. The Montana Environmental Policy Act (MEPA) will apply to those permitting actions and the agency will therefore perform MEPA reviews pertaining to those permits. These impacts are not quantifiable at this time. If impacts are significant enough to trigger an EIS through MEPA, the applicant will be charged fees to perform an EIS through MEPA.

Shortened timeframes

13. This bill shortens time frames for MFSA reviews. If the department receives applications for linear facilities that trigger the MFSA review, work that cannot be completed by department staff will by necessity be contracted out.
14. Any costs of contracted services associated with application review will be paid with fees that are assessed to the applicant under the MFSA law. However, it is impossible to predict whether these costs will go up or down as cost is dependent on the individual consulting firm's hourly rates, the type and complexity of projects and the time frame set for completion of services. The department has not sited a pipeline (linear facility since 1996).
15. There is no fiscal impact to the Public Service Commission, the Montana Department of Transportation, Fish, Wildlife & Parks, or DNRC.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

MFSA supercedes many local regulations (75-20-103 and 75-20-401, MCA). After the issuance of a MFSA certificate, most other local permits are not required. Currently local permits are only required for small power generating plants and pipelines up to 17 inches in diameter and up to 30 miles long. This bill will put the responsibility for administering all local permits for power generating plants and pipelines up to 25 inches in diameter and up to 50 miles long on affected counties. Among these local permits are stream crossing permits, permits for sanitary facilities, zoning regulations, and building permits.

TECHNICAL NOTES:

1. Section 12(4)(a)(i) and (ii) provide construction deadlines for a facility that is a pipeline. The deadlines are based on whether the pipeline is more or less than 30 miles in length. However, to be a “facility” and thus subject to regulation under SB 319 a pipeline must be 50 miles in length.
2. It is not clear that the saving clause continues the department’s regulatory authority over facilities and associated facilities currently operating under a certificate. This should be expressly provided for in Section 18.
3. It is not clear that the saving clause continues the department’s oversight responsibility (75-20-204, MCA) over facilities and associated facilities currently operating under a Federal Energy Regulatory Commission license for which the department currently has oversight responsibility. This should be expressly provided for in Section 18.
4. Section 18 should be amended to provide that SB 319 does not apply to the facilities defined in 75-20-104 (8)(a), (8)(b) and (8)(d), MCA, the day before, rather than on, the effective date of SB 319.
5. Sections 75-20-225 and 75-20-226, which authorize and provide procedures for renewal of certificates for generation and conversion facilities, have been repealed. There are no renewal statutes for linear or geothermal facilities. The references to renewals in Section 9(2) and 12(4)(b) should therefore be removed.
6. SB 319 provides no deadline for construction of a geothermal facility after issuance of a certificate.